IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

C.W.P. No. 10856 of 2007
Date of Decision: 12.10.2007

M/S Flora Exports, V.P.O. Siwah, District Panipat.

..... Petitioner through Shri Sukhwinder Singh, Advocate.

Versus

State of Haryana and another.

..... Respondents for Shri Randhir Singh, Addl.Advocate General, Haryana.

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE
HON'BLE MR.JUSTICE MAHESH GROVER

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1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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VIJENDER JAIN, CHIEF JUSTICE

By way of the present petition under Article 226 of the Constitution of India, the petitioner has approached this Court for issuance of a writ in the nature of certiorari for quashing order dated 30.3.2007 (Annexure P20) by which its prayer for extension in the change of land use permission was declined on the ground that it had not carried out the construction at the site within the validity of the permission.

It has been pleaded by the petitioner that the construction had been delayed on account of non-sanctioning of the plans by the respondents

and in any eventuality, after the plans were sanctioned, it had gone ahead with the construction which is now at an advance stage and had also prayed, vide application dated 17.8.2005, for extension of the change of land use permission so as to enable it to complete the construction of the premises where it intends to operate its business venture.

During the course of proceedings, we had posed a question to the respondents as to how they had issued order dated 19.12.2005 without even deciding application dated 17.8.2005 made by the petitioner with the request for extension of time of the permission for change of land use. Despite the opportunity granted to the respondents, no attempt was made to answer the pointed query, rather they sought umbrage by raising a plea which is reflected in para 11 of the counter-affidavit. The same is reproduced below:-

> "11. That in reply to Para 11 of the writ petition the submissions made in para 3 and 8 of the preliminary submissions are reiterated. Regarding requests of the Petitioners dated 17.8.2005 and 23.4.2006 enclosed as Annexure P-12 and P-15 respectively with the writ petition, it is submitted that the reference dated 17.8.2005 had been diarized in the Diary Register but had never been put up to any Officer. The entry has not been made by the dealing Clerk and is not in his handwriting. The reference dated 23.4.2006 is neither reflected in Diary Register nor was put up to any Officer. The request dated 26.5.2006 which is the first

reference available in the concerned file was dealt by this office. This request was made after the expiry of the validity period of change of land use permission and was decided considering the facts available on the file. From the above mentioned facts, it appears the petitioner with the help of lower staff may have succeeded in getting the application dated 17.8.2005 entered in Receipt Register which was never put up before any Officer on the file. This raises doubt over the conduct of Petitioner as well as lower staff. The matter is being investigated.

The observations on the Building Plans were conveyed within three months of the submission of Building plans. The petitioner cannot take advantage of not abiding with the Rules and building Bye-laws. Substantial delay, in submission of Building Plans and rectification to the observations conveyed to the petitioner at one go, lies with the petitioner and therefore no benefit on account of delay in approval of Building Plans can be given to the petitioner company."

We are not convinced with the aforesaid stand taken by the respondents. To our mind, it was imperative upon the respondents to have decided the application of the petitioner for extension of land use permission by taking into consideration the ground realities as they existed on the date when the same was made. The respondents could not have

ignored this application in view of the substantial construction having been made by the petitioner which is reflected from the photographs placed on record and the veracity of which has not been denied by them.

We can only notice with anguish the apathetic attitude of the respondents and the state of affairs prevailing in their office. If the endeavour of the State is to promote industry or development by granting permission for change of land use, then the same cannot be scuttled when concerned incumbent is showing his bona fides. The attitude of the State authorities reveals an insensitive stubbornness which tends to defeat the rights of a citizen and tends to put him at great pecuniary risk without any justifiable reason.

In this case, we do not find any valid ground for not considering the prayer of the petitioner for extension of change of land use permission.

Consequently, this petition is accepted, impugned order Annexure P20 is set aside and the respondents are directed to forthwith decide the application of the petitioner for extension of change of land use permission specifically keeping in view the fact that it has carried out a substantial amount of construction on the site.

(Vijender Jain)
Chief Justice

October 12,2007
"SCM"

(Mahesh Grover)
Judge